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1 MONTANA NINETEENTH JUDICIAL DISTRICT COURT

2 LINCOLN COUNTY

3

4 Cause No. DV-98-142

5 EDWARD A. GASTON, )

6 Plaintiff, )

7 -vs- )

8 W.R. GRACE & CO.-Conn., a )

Connecticut corporation; )

9 EARL D. LOVICK and DOES I-IV, )

10 Defendants. )

11 )

12

13 DEPOSITION OF

14 EDWARD A. GASTON

15 (On Behalf of Defendants.)

16

17

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19

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21

22 Venture Motor Inn

23 443 Highway 2 West

Libby, Montana

24 Monday, March 22, 1999 -- 3:00 p.m.

25 Reported by Beth Gilman, RPR and Notary Public for  
the State of Montana, County of Flathead

HEDMAN, ASA & GILMAN REPORTING - 752-5751/752-3334  
P. O. BOX 394 -- KALISPELL, MONTANA

1 or Ed, it's important that you and I communicate  
2 with one another, so if I ask you a question that  
3 you don't completely understand, please just tell me  
4 and I'll rephrase it so that you do understand it  
5 and you're answering the question that I'm asking.

6 A. All right.

7 Q. Okay. How old are you?

8 A. Seventy-one in September.

9 Q. Mr. Gaston, how would you describe your  
10 general health as you sit here today?

11 A. It wasn't too bad until awhile back.  
12 Last -- You know, first part I started getting a  
13 cough and I got phlegm in my throat, phlegm caught  
14 in my throat. Otherwise I've been pretty good up  
15 until that time.

16 Q. Do you remember about when that was, Mr.  
17 Gaston?

18 A. I don't know. Must have been January of  
19 last year.

20 Q. So roughly about January of 1998 you  
21 started getting a cough?

22 A. That's right. That's right. Seemed like  
23 the phlegm was coming from my throat.

24 Q. Okay. Do you have any trouble breathing  
25 at times?

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1       A.   Not really. I suppose if I go up the  
2   stairs a long time, or up a hill, I suppose I  
3   probably would, but I really haven't had to do it,  
4   so I never realized it was a problem.

5       Q.   Okay. So in your everyday life, as you're  
6   functioning everyday, you don't seem to have much of  
7   a problem with shortness of breath?

8       A.   No, not -- My big problem is my nose and  
9   ears get stuffed up. I think it's caused by  
10  allergies or something, because I have these spells  
11  and I can't hear too good. That's one of my big  
12  problems.

13      Q.   Are you having any trouble hearing me  
14  right now, Ed?

15      A.   Not too much, no. I can hear you, but  
16  I -- It isn't real -- I think these tubes get  
17  plugged up in my throat. That's part of my problem.

18      Q.   Well, make sure that if you don't hear  
19  something or you're not sure exactly what I say,  
20  please just give me a holler.

21      A.   That's right. I understand what you're  
22  saying.

23      Q.   Ed, are you under any medication for that  
24  cough that you were talking about?

25      A.   Well, the doctor gave me some Prednisone,

1 or something like that. He told me to take two a  
2 day for a week and then one a day. I just keep  
3 getting these prescriptions for awhile, so that's  
4 what I've been taking. It seems to help some. And  
5 I take vitamins and things like that.

6 Q. So your cough has reduced somewhat after  
7 taking this medication?

8 A. Yeah, I believe it has. I had a burst of  
9 air there for awhile now.

10 Q. Ed, you were diagnosed last summer with  
11 asbestosis. Are you aware of that?

12 A. That's right. That was Dr. Johnson.

13 Q. What is your understanding of what that  
14 is?

15 A. Well -- Well, I understand that the  
16 particles get in your lungs and you can't get it  
17 out. That's what I understand.

18 Q. Now, Ed, prior to getting this cough in  
19 the early part of 1998, would you describe your  
20 health as pretty good?

21 A. Yes, I do.

22 Q. Other than this medication that you're on  
23 for your cough, are you on any other medication?

24 A. No.

25 Q. You're not on any type of inhalant or

1 were cutting way down on their crews.

2           They did that twice. Second time I took  
3 it up. The second time up there she said, Would you  
4 like to take that? I'll figure out how much you get  
5 for the company pension and, she said, you might  
6 just want to take it, so come on up to the office  
7 and sign up.

8           That was in February, and then September  
9 they closed everything up. I had an idea that they  
10 would.

11          Q. Is that why you took the severance,  
12 because you figured they were going to close down?

13          A. That's right, I figured they were going to  
14 close down. They did pretty good on the severance  
15 pay. They was pretty generous about it.

16          Q. Ed, you worked for W. R. Grace for about  
17 31 years; is that right?

18          A. April, '59.

19          Q. Were you happy working up there?

20          A. Yeah, it wasn't all that bad. It was a  
21 lot better than some jobs I had. It wasn't all that  
22 bad, really.

23          Q. Ed, in some written discovery that was  
24 given to us, it indicated that you were a  
25 construction worker before you started working at

1 mortar?

2 A. No.

3 Q. You graduated from Troy High School in  
4 1946?

5 A. That's right, '46.

6 Q. Ed, did you have any other formal  
7 education after that?

8 A. No.

9 Q. How about any training? Did you ever go  
10 to any training courses or training schools?

11 A. No.

12 Q. And I think you said you started with  
13 Grace in April of '59?

14 A. Right. A pretty good place to work in one  
15 way because they didn't just lay you off when things  
16 went -- They would just keep you anyway, you know.  
17 Construction jobs, they don't need you, away you go.

18 Q. So a little steadier up at the mine?

19 A. Construction jobs, the boss knows you as  
20 "Hey, you," and the mine people knows you by your  
21 number. A little different up there.

22 Q. What was the first job you had up there at  
23 the mine? Do you remember?

24 A. Okay. When I first started working, I was  
25 on a construction job. Dutch Flatt, that was the

1 mill superintendent, and I bid at the mill as a  
2 sweeper, and a sweeper, he fills in for the top  
3 floor operator when he's gone and also the skip  
4 operator.

5 Q. Could we back up a little bit? You said  
6 you were in the construction department?

7 A. That's right, just for a short time.

8 Q. That was going to be my question. Do you  
9 remember about how long?

10 A. A little over a month is all.

11 Q. Oh, okay. And then you bid what job?

12 A. The sweeper in the mill.

13 Q. That was in the dry mill?

14 A. Yeah. They had three people in the mill  
15 and -- three people on each shift in the dry mill  
16 and they had two operators in the wet mill, and then  
17 had a wet mill cleanup man. And that's all they  
18 had, you know, except a tester. That's all they had  
19 at that time. So they was getting by pretty good.

20 Q. How long were you a dry mill sweeper?

21 A. Oh, during that one summer, the summer of  
22 '59.

23 Q. And what did a dry mill sweeper do?

24 A. Just sweep all the dirt down these holes  
25 and goes down to the tail belt.

1 Q. Is that a dusty job?

2 A. Yeah, it is.

3 Q. Did you ever wear a respirator?

4 A. I wore it a lot of the time, yes, I did.

5 Q. Were you told to wear a respirator, Ed?

6 A. Yeah, I was.

7 Q. Who told you?

8 A. Okay. Dutch Flatt was the mill  
9 superintendent. He said, Be sure and wear a  
10 respirator.

11 He broke me in on the job. He was a  
12 supervisor. He broke me in on the job and told me  
13 what to do. He was in charge of everything, and he  
14 had all the shops and everything. After he left it  
15 took four men to take his place. He seemed to know  
16 what he was doing.

17 Q. Did he tell you why you should wear a  
18 respirator when you were sweeping?

19 A. No, he didn't say nothing. Never said  
20 anything.

21 Q. He just said to wear a respirator and you  
22 did so?

23 A. Because sometimes it was dusty in there.  
24 You could see that it was. They had a big 600 fan  
25 in there that was supposed to take the dust off



1 these hoods on the screens. It done some good, you  
2 know. It did.

3 Q. But didn't get it all?

4 A. Oh, no, because there was times when it  
5 was a lot more dusty than others.

6 Q. What did you do after you became a  
7 sweeper?

8 A. Okay. Well, Dutch Flatt came over and got  
9 me, and they started this -- called a spiral tester,  
10 and he got it up, so all of us had to come over and  
11 he just told us what we had to do. We did that for  
12 awhile, and after awhile some guy went to the  
13 research department and I was the shift tester. We  
14 would alternate shift, graveyard, swing and days.

15 Q. And what does a tester do?

16 A. Well, picks up samples in the mill every  
17 hour and he takes them down and analyzed them, you  
18 weigh them and put them in a furnace. They had a  
19 fan that was a vibrating fan and you blow all the  
20 vermiculate off for the rock.

21 Q. What were you testing for?

22 A. You tested for expansion, for one thing.  
23 Some of the ore was a lot better than others. They  
24 did that and told the customers what kind of ore  
25 they had.

1           Then they had a car sample tester too and  
2 test each car as they were loading it.

3           Q.   So you were basically testing for the  
4 quality of the ore?

5           A.   That's right, because the less rock the  
6 better the customer liked it.

7           Q.   Was there much dust when you were a  
8 tester?

9           A.   Not in the test lab itself, no, but we  
10 would go up through the mill, go up through the dry  
11 mill and pick up samples and go to the wet mill and  
12 come back to the wet mill again.

13          Q.   And it was dusty up in the dry mill?

14          A.   Oh, yes, it was.

15          Q.   But where you were working as a tester it  
16 wasn't dusty?

17          A.   Not in the test lab itself it wasn't.

18          Q.   Would you wear a respirator when you would  
19 go up into the dry mill to get your samples?

20          A.   That's right.

21          Q.   Is that a yes?

22          A.   That's right.

23          Q.   Who trained you to be a tester?

24          A.   Dutch Flatt. He was the mill

25 superintendent. After he left, well, Walt Baker and

1 Alvin Nicholls was the supervisors then.

2 Q. Did you say Dutch Flatt?

3 A. Okay, well, these other four guys took  
4 over after Dutch Flatt left. One of them was Bud  
5 Vinion. He was the quality control supervisor.

6 Q. Did anyone else besides Dutch Flatt ever  
7 tell you to wear a respirator?

8 A. Oh, not that I recall, no. Some people  
9 were pretty particular about wearing them, and  
10 others didn't -- they didn't care.

11 Q. You saw people wearing a respirator?

12 A. Well, the operators wore respirators a  
13 lot, but the millwrights didn't. They was always  
14 busy with their hoods or goggles or something and  
15 they didn't pay attention to respirators. They just  
16 didn't do it. The guys in the construction areas  
17 didn't use respirators either.

18 Q. Did you ever hear anybody in Grace  
19 management telling other employees to use  
20 respirators?

21 A. Not really, no. It was just -- No, I  
22 don't think they really insisted on it. I don't  
23 think they were.

24 Q. How long were you a tester?

25 A. Oh, a little over ten years in the old

1 mill. I was a tester for awhile in the new mill,  
2 more recent times.

3 Q. But you were a tester for about ten years  
4 when the old dry mill was running?

5 A. That's right.

6 Q. Then what did you do, Ed?

7 A. Oh, I bid on the tails belt.

8 Q. Excuse me?

9 A. Tails belt. It ran through the wet mill  
10 first and then through the dry mill a ways, and then  
11 the sweepers got all of it except what is actually  
12 under the belt, and they just shoveled it up into a  
13 big ball.

14 It was a good job until they started that  
15 filter house. It would go haywire and make a big  
16 mess and fill that whole tunnel up with mud. Just  
17 really gross.

18 Q. Was it more labor-intensive than being a  
19 tester?

20 A. Yeah, probably so. Oh, none of them jobs  
21 were actually all that hard. They really weren't.  
22 Like top floor operator, anybody could do that. It  
23 wasn't all that hard a job. All they did was grease  
24 and brush the screens. That's all they had to do.

25 Q. And how long were you a tails belt

1 operator?

2 A. I don't know. Somewhere around two years  
3 or somewhere in that time.

4 Q. Was there a lot of dust around then?

5 A. No, there wasn't. There wasn't a lot on  
6 the tails belt itself. It had a gadget that went  
7 way out over the tails belt.

8 Q. Did you wear a respirator when you did  
9 that job?

10 A. Not on the side on the tails belt. I did  
11 when I was in the dry mill. You would have to go  
12 there just for a short time each day and get what  
13 was underneath the belt.

14 Q. Now, after the two years, what job did you  
15 take then?

16 A. Oh, that's when they went to the new mill,  
17 and I worked on the big belts up on top, and also I  
18 worked down at the screening plant. Also they would  
19 have us extra go out there in what they called the  
20 skid house is where the tailings were.

21 Kind of mixed up there for awhile because  
22 they would send us to different jobs, so we had to  
23 just do what they wanted us to do around the new  
24 mill until it broke down, and we would run the old  
25 mill for a few days until they got it fixed. Took a

1 long time to get into the new mill.

2 Q. When the new mill was in and things kind  
3 of settled down --

4 A. That's right.

5 Q. -- what was your job then?

6 A. Oh, they wanted -- First when they went to  
7 the new mill they wanted just to transfer us to our  
8 similar jobs in the new mill. Union made a big fuss  
9 over it. They wanted to bid on the job. I didn't  
10 have any department and I had to do something, so I  
11 bid on the screening plant down there to get into a  
12 department.

13 Q. And is that the job you did, in the  
14 screening plant then?

15 A. Yeah.

16 Q. What did you do in the screening plant?

17 A. Okay. What you do, they have a number 1  
18 operator and a number 2 operator. Number 1  
19 operator, he pushes buttons and makes sure  
20 everything -- and the number 2 operator fills in for  
21 them and also sweeps with a big vacuum cleaner, and  
22 you change screens.

23 Q. Did you wear a respirator when you were  
24 working in the screening plant?

25 A. Yes, and some places we had to wear ear

1 plugs too. It wasn't too bad except in the winter.  
2 It was cold in there in the winter, all that wind  
3 blowing through there. Gee, so cold you couldn't  
4 stand it.

5 Q. How long did you work in the screening  
6 plant?

7 A. A little over two years. From there I  
8 went on to the big belts up on top, the one coming  
9 to the transfer point.

10 Q. And what did you do there?

11 A. Oh, they had the big belts up on top and  
12 you grease them every so often, and they clean up  
13 the messes underneath if something goes wrong. It  
14 was a good job until something went wrong and then  
15 you had to do quite a bit of doing to get that stuff  
16 back on to the belt again. We swept with a broom  
17 too, you know. You go through it everyday and sweep  
18 it down through the cracks about that wide on each  
19 side, just sweep it out. Later on they had a vacuum  
20 system in there and they done it with that.

21 Q. And when you were working with the big  
22 belts, did you wear a respirator then?

23 A. Some jobs when you're working down in OS &  
24 B you did, but up on the belts it really wasn't all  
25 that dusty. Transfer point really wasn't all that

1 dusty either. But the OS & B, they were dusty. The  
2 belts themselves weren't all that bad.

3 Q. And I think you indicated you did that for  
4 about two years; is that right?

5 A. Yeah.

6 Q. And then what did you do?

7 A. Well, then they eliminated the job so I  
8 didn't have any place to go, so I went back to the  
9 old job that I had as a number -- utility man. Just  
10 like the number 3 operator, see.

11 Q. In the screening plant?

12 A. No. In the wet mill up there.

13 Q. Oh.

14 A. You didn't have to know a lot to do that  
15 because mostly it's just cleaning up and checking  
16 things out. But the number 2 operator had the worst  
17 job. He had a lot to do.

18 Q. And did you take the number 2 operator  
19 job?

20 A. No. I didn't like that at all. I got  
21 stuck with it for awhile. I thought it was a  
22 terrible job, get all wet all the time, gee whiz.  
23 Terrible in the winter. The number 1 operator sat  
24 at the control room and pushed buttons. Number 2  
25 would run the top floors, and the utility man would



1 issued us coveralls and paid for them, coveralls,  
2 but you would have to leave them up there. We  
3 weren't supposed to take them home; we would leave  
4 them up there.

5 Q. I see. Now, after you worked in the test  
6 lab, where did you work then?

7 A. Oh, I bid on the dust truck because that's  
8 the only way I could get into a department. See,  
9 they divided up all these departments real fine, and  
10 I didn't have anything left out of the department  
11 and I had to bid on that. Anyway, at the time they  
12 had it it was part of the screening plant.

13 Q. So how long were you a dust truck driver?

14 A. Oh, about two years, something like that.  
15 I don't know exactly. I suppose I got the records  
16 someplace. I don't remember for sure.

17 It was kind of a hard job though. We have  
18 to hook up all them hoses and go around and collect  
19 the dust samples out of the bins, you know. I would  
20 go over there on a -- across the river and get the  
21 samples from -- the dust from the loading place,  
22 sometimes fill up the entire truck and have to put  
23 out to the popping plant, and sometimes go down  
24 there to the loading bins, and they had four cycles  
25 down there and they would pick up the truck, take it

1 up and dump it in a -- in a tails pond right  
2 directly under the water.

3 Q. Do you remember why you would collect dust  
4 samples? What was the purpose of that?

5 A. What samples?

6 Q. Dust samples. You said you would collect  
7 dust samples.

8 A. No, we didn't. Later on they had those  
9 little discs that that lady put on us and go around  
10 and she would check them out once in awhile. But  
11 that's the only thing we knew about that. They  
12 hired somebody for that.

13 Q. What did you do after you were no longer a  
14 dust truck driver?

15 A. That's when they asked us to leave. They  
16 said, If anybody wants to leave now, and quite a few  
17 of them took it. They was going to cut way down on  
18 the crews, just trying to economize for some reason.

19 Q. So the last job you had there was dust  
20 truck driver?

21 A. Yeah.

22 Q. Did you wear a respirator as a driver?

23 A. Yes.

24 Q. Ed, were you ever a supervisor up there at  
25 the mine?

1 Grace in 1959; correct?

2 A. Right.

3 Q. I would like to talk specifically about  
4 the 1960s for a moment; okay?

5 A. Okay.

6 Q. During the 1960s, do you recall any  
7 improvement with regard to the dust problem up there  
8 at the mine?

9 A. No. No.

10 Q. Do you remember the company trying to do  
11 anything to reduce the amount of dust in the '60s?

12 A. No. No.

13 Q. How about in the '70s? Do you remember  
14 the company doing anything to reduce the dust?

15 A. No, I don't believe they did.

16 Q. Do you ever recall it being stated that  
17 that was one of the reasons they put in the new  
18 mill, to reduce the dust, in the '70s?

19 A. No, I don't believe it was. I think -- I  
20 don't know what all went on, but when Grace was  
21 going to buy the mill, the people came here and they  
22 wanted -- Anyway, Grace came here and met just five  
23 hours with us altogether, and they took him around  
24 up there at the mill and put the people in all the  
25 offices and went through the books. And they wanted

1 to do that so they could build a new mill, which was  
2 quite expensive though. Seems to me like they go to  
3 a lot more expense than what they really have to,  
4 make something more elaborate and costly than what  
5 they really need to have.

6 Q. Ed, was there a big difference in the  
7 amount of dust you had to deal with when you were  
8 working inside the mill as opposed to outside the  
9 mill?

10 A. Oh, probably -- Oh, there was quite a bit  
11 inside the mill, and down there where they loaded  
12 the trucks down at the lower bins where the skip  
13 went down, it was quite dusty down there.

14 Q. Outside of that place, was there a big  
15 difference in the dust that was outside --

16 A. That's right. Some places was a lot more  
17 dusty than others.

18 Q. Do you remember the kind of respirator you  
19 used to use?

20 A. First we had those respirators that was  
21 metal, you know, aluminum, and they had a rubber  
22 thing around there and they had a little filter that  
23 you put inside. We used those first. Used several  
24 different kinds that they had there.

25 Q. What were some of the other kinds that you

1 could be dangerous if you breathed it?

2 A. No, I didn't.

3 Q. When did you find out that it could be  
4 dangerous to breathe in that dust?

5 A. Oh, I don't know. No specific time. I  
6 really didn't.

7 Q. Within the last year did you hear that?

8 A. You mean the last year I was working up  
9 there?

10 Q. No. The last year from right now. Within  
11 the last year, is that when you first heard that it  
12 could be dangerous?

13 A. I suppose, yeah. People probably  
14 mentioned it, but people weren't real specific about  
15 it at any time. Never was.

16 Q. Did you ever ask anybody, Ed, why they had  
17 that chest x-ray program up at the mine?

18 A. No. They started that in '59 when I first  
19 started working up there and I took it every year.  
20 They didn't say anything about it. Maybe it was  
21 some kind of regulation that they were supposed to  
22 do through the state. I don't know what it was.

23 Q. They didn't explain to you why?

24 A. No.

25 Q. And you never asked anybody why?

1 A. No.

2 Q. Did you receive the report back about the  
3 conclusion of the chest x-ray?

4 A. Oh, yes.

5 Q. Who would tell you about that?

6 A. Oh, I think the doctors that they -- They  
7 just give you a little slip there. It wasn't  
8 specific about anything.

9 Q. And the slip that they gave you always  
10 indicated that your chest x-ray was fine?

11 A. That's right.

12 Q. Do you remember taking pulmonary function  
13 tests too?

14 A. No, they didn't. Later on they had the  
15 breathing tube. That's all. That was just later  
16 on. It wasn't early.

17 Q. Okay. Later on when you started doing  
18 that tube thing, that pulmonary function test --

19 A. Yeah.

20 Q. -- did they tell you why you were doing  
21 that?

22 A. No, they didn't tell us anything like  
23 that.

24 Q. Did you ask anybody why you were taking  
25 those?

1 A. No.

2 Q. You never smoked?

3 A. No.

4 Q. Do you remember when Grace invoked the  
5 non-smoking policy up at the mine?

6 A. I don't remember exactly what time it was,  
7 but when they had it, well, union people wanted to  
8 arbitrate it so they wouldn't have to have it, but  
9 they lost the arbitration.

10 Q. There were a lot of folks up there that  
11 wanted to continue to be able to smoke up there;  
12 right?

13 A. Yeah, they would hide out.

14 Q. Were there a lot of employees that would  
15 hide out and smoke even after the policy?

16 A. Oh, sure. Oh, sure. Oh, yeah, a lot of  
17 them did that.

18 Q. At that time do you recall the company  
19 telling the employees why they were invoking the  
20 non-smoking policy?

21 A. No, they didn't. No, they didn't. No.

22 Q. Ed, I'm going to hand you what we've  
23 marked as Exhibit 187a and ask that you look at  
24 that. Do you recognize that, Ed?

25 A. No, never seen it until now.